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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,685	01/29/2004	Patrick Lawrence Ransom	2002-0624.02	5576
21972	7590	10/12/2005	EXAMINER	
LEXMARK INTERNATIONAL, INC. INTELLECTUAL PROPERTY LAW DEPARTMENT 740 WEST NEW CIRCLE ROAD BLDG. 082-1 LEXINGTON, KY 40550-0999				GLEITZ, RYAN M
		ART UNIT		PAPER NUMBER
		2852		
DATE MAILED: 10/12/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/767,685	RANSOM ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Ryan Gleitz	2852

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
  - 4a) Of the above claim(s) 21 and 22 is/are withdrawn from consideration.
- 5) Claim(s) 23-29 is/are allowed.
- 6) Claim(s) 1 and 15-18 is/are rejected.
- 7) Claim(s) 2-14, 19, and 20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/07/05</u> .	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 20 and 21, drawn to a business machine, classified in class 399, subclass 110.
- II. Claims 1-19 and 22-29, drawn to a housing assembly having a closed loop track for a cover, classified in class 49, subclass 260.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because Invention I does not require the track or closed loop, for example the stable open and closed positions are found with any conventional hinge. The subcombination has separate utility such as a lid on an apparatus besides a business machine, for example, a freezer.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Joseph Arrambide on 29 September 2005 a provisional election was made without traverse to prosecute the invention of Invention II, claims 1-19 and 22-29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 21 and 22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

*Specification*

The abstract is objected to because lines 1-3 are not a sentence. Please change "including" to --includes-- in line 1.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Malocsay (US 938,427).

Malocsay discloses a car, which is a housing having an access opening; a car door (3), which is a cover movable between a closed position, figure 1, wherein the cover (3) generally covers the access opening and an open position, figure 2, wherein the cover (3) generally does not cover the access opening.

Pintles (142) are a protrusion located on one of the housing or the cover; and a groove (141) is a track located on the other one of the housing or the cover, the protrusion (142) being slidably received in the track (141), and wherein the track forms a generally closed loop shape, as shown by figure 1-2, such that the protrusion slides in the track when the cover (3) is moved between the open and the closed positions.

Regarding claim 15, wherein movement of the cover (3) from the closed position to the open position, figure 2, and returning the cover (3) to the closed position, figure 1, causes the protrusion to slide in the track in a generally closed loop path.

Regarding claim 16, the cover (3) is pivotally coupled to the housing, comparing figures 1 and 2.

Regarding claim 17, handle (143) is an arm, which is pivotally mounted to the housing and has pintle (142) located on it via the door.

Regarding claim 18, pivot plank (147) and bolts (148) are a means to allow movement of the protrusion in a first direction and to generally block movement of the protrusion in a second direction.

***Allowable Subject Matter***

Claims 23-29 are allowed.

Claims 2-14, 19, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

The claims are considered patentable because of the inclusion of the claim limitations, a track that forms a generally closed loop shape such that the protrusion slides in the track and rests in a first rest location below a second rest locations with adjacent portion of the track extending upwardly or downwardly, that is not taught by or suggested by the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bruneau (US 4,742,598) discloses a business machine having a track for a cover with first and second rest locations for a protrusion.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Gleitz whose telephone number is (571) 272-2134. The examiner can normally be reached on Monday-Friday between 9:00AM and 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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